

AMENDED IN SENATE MAY 28, 2002

AMENDED IN ASSEMBLY APRIL 1, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1958

Introduced by Assembly Member Bates

February 14, 2002

An act to amend Section 56.10 of the Civil Code, relating to ~~privacy~~
coroner's reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 1958, as amended, Bates. ~~Privacy~~ *Coroner's reports*.

Existing law, which is repealed by its own terms on January 2, 2003, requires a provider of health care, a health service plan, or a health contractor to disclose medical information if the disclosure is required by a coroner in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden infant death, suspicious deaths, unknown deaths, or criminal deaths, or when otherwise authorized by the decedent's representative. Medical information requested by the coroner under this provision must be limited to information regarding the patient who is the decedent and who is the subject of the investigation and must be disclosed to the coroner without delay upon request.

This bill would extend this provision indefinitely.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 56.10 of the Civil Code, as added by Section 1.16 of Chapter 1068 of the Statutes of 2000, is amended to read:

56.10. (a) No provider of health care, health care service plan, or contractor shall disclose medical information regarding a patient of the provider of health care or an enrollee or subscriber of a health care service plan without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care, a health care service plan, or a contractor shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a governmental law enforcement agency.

(7) By the patient or the patient's representative pursuant to Chapter 1 (commencing with Section 123100) of Part 1 of Division 106 of the Health and Safety Code.

(8) By a coroner, when requested in the course of an investigation by the coroner's office for the purpose of identifying the decedent or locating next of kin, or when investigating deaths that may involve public health concerns, organ or tissue donation, child abuse, elder abuse, suicides, poisonings, accidents, sudden

1 infant death, suspicious deaths, unknown deaths, or criminal
2 deaths, or when otherwise authorized by the decedent's
3 representative. Medical information requested by the coroner
4 under this paragraph shall be limited to information regarding the
5 patient who is the decedent and who is the subject of the
6 investigation and shall be disclosed to the coroner without delay
7 upon request.

8 (9) When otherwise specifically required by law.

9 (c) A provider of health care, or a health care service plan may
10 disclose medical information as follows:

11 (1) The information may be disclosed to providers of health
12 care, health care service plans, contractors, or other health care
13 professionals or facilities for purposes of diagnosis or treatment of
14 the patient. This includes, in an emergency situation, the
15 communication of patient information by radio transmission or
16 other means between emergency medical personnel at the scene of
17 an emergency, or in an emergency medical transport vehicle, and
18 emergency medical personnel at a health facility licensed pursuant
19 to Chapter 2 (commencing with Section 1250) of Division 2 of the
20 Health and Safety Code.

21 (2) The information may be disclosed to an insurer, employer,
22 health care service plan, hospital service plan, employee benefit
23 plan, governmental authority, contractor, or any other person or
24 entity responsible for paying for health care services rendered to
25 the patient, to the extent necessary to allow responsibility for
26 payment to be determined and payment to be made. If (A) the
27 patient is, by reason of a comatose or other disabling medical
28 condition, unable to consent to the disclosure of medical
29 information and (B) no other arrangements have been made to pay
30 for the health care services being rendered to the patient, the
31 information may be disclosed to a governmental authority to the
32 extent necessary to determine the patient's eligibility for, and to
33 obtain, payment under a governmental program for health care
34 services provided to the patient. The information may also be
35 disclosed to another provider of health care or health care service
36 plan as necessary to assist the other provider or health care service
37 plan in obtaining payment for health care services rendered by that
38 provider of health care or health care service plan to the patient.

39 (3) The information may be disclosed to any person or entity
40 that provides billing, claims management, medical data

1 processing, or other administrative services for providers of health
2 care or health care service plans or for any of the persons or entities
3 specified in paragraph (2). However, no information so disclosed
4 shall be further disclosed by the recipient in any way that would
5 be violative of this part.

6 (4) The information may be disclosed to organized committees
7 and agents of professional societies or of medical staffs of licensed
8 hospitals, licensed health care service plans, professional
9 standards review organizations, independent medical review
10 organizations and their selected reviewers, utilization and quality
11 control peer review organizations as established by Congress in
12 Public Law 97-248 in 1982, contractors, or persons or
13 organizations insuring, responsible for, or defending professional
14 liability that a provider may incur, if the committees, agents, health
15 care service plans, organizations, reviewers, contractors, or
16 persons are engaged in reviewing the competence or qualifications
17 of health care professionals or in reviewing health care services
18 with respect to medical necessity, level of care, quality of care, or
19 justification of charges.

20 (5) The information in the possession of any provider of health
21 care or health care service plan may be reviewed by any private or
22 public body responsible for licensing or accrediting the provider
23 of health care or health care service plan. However, no
24 patient-identifying medical information may be removed from the
25 premises except as expressly permitted or required elsewhere by
26 law, nor shall that information be further disclosed by the recipient
27 in any way that would violate this part.

28 (6) The information may be disclosed to the county coroner in
29 the course of an investigation by the coroner's office when
30 requested for all purposes not included in paragraph (8) of
31 subdivision (b).

32 (7) The information may be disclosed to public agencies,
33 clinical investigators, including investigators conducting
34 epidemiologic studies, health care research organizations, and
35 accredited public or private nonprofit educational or health care
36 institutions for bona fide research purposes. However, no
37 information so disclosed shall be further disclosed by the recipient
38 in any way that would disclose the identity of any patient or be
39 violative of this part.

1 (8) A provider of health care or health care service plan that has
2 created medical information as a result of employment-related
3 health care services to an employee conducted at the specific prior
4 written request and expense of the employer may disclose to the
5 employee's employer that part of the information that:

6 (A) Is relevant in a lawsuit, arbitration, grievance, or other
7 claim or challenge to which the employer and the employee are
8 parties and in which the patient has placed in issue his or her
9 medical history, mental or physical condition, or treatment,
10 provided that information may only be used or disclosed in
11 connection with that proceeding.

12 (B) Describes functional limitations of the patient that may
13 entitle the patient to leave from work for medical reasons or limit
14 the patient's fitness to perform his or her present employment,
15 provided that no statement of medical cause is included in the
16 information disclosed.

17 (9) Unless the provider of health care or health care service plan
18 is notified in writing of an agreement by the sponsor, insurer, or
19 administrator to the contrary, the information may be disclosed to
20 a sponsor, insurer, or administrator of a group or individual insured
21 or uninsured plan or policy that the patient seeks coverage by or
22 benefits from, if the information was created by the provider of
23 health care or health care service plan as the result of services
24 conducted at the specific prior written request and expense of the
25 sponsor, insurer, or administrator for the purpose of evaluating the
26 application for coverage or benefits.

27 (10) The information may be disclosed to a health care service
28 plan by providers of health care that contract with the health care
29 service plan and may be transferred among providers of health care
30 that contract with the health care service plan, for the purpose of
31 administering the health care service plan. Medical information
32 may not otherwise be disclosed by a health care service plan except
33 in accordance with the provisions of this part.

34 (11) Nothing in this part shall prevent the disclosure by a
35 provider of health care or a health care service plan to an insurance
36 institution, agent, or support organization, subject to Article 6.6
37 (commencing with Section 791) of Part 2 of Division 1 of the
38 Insurance Code, of medical information if the insurance
39 institution, agent, or support organization has complied with all
40 requirements for obtaining the information pursuant to Article 6.6

1 (commencing with Section 791) of Part 2 of Division 1 of the
2 Insurance Code.

3 (12) The information relevant to the patient's condition and
4 care and treatment provided may be disclosed to a probate court
5 investigator engaged in determining the need for an initial
6 conservatorship or continuation of an existent conservatorship, if
7 the patient is unable to give informed consent, or to a probate court
8 investigator, probation officer, or domestic relations investigator
9 engaged in determining the need for an initial guardianship or
10 continuation of an existent guardianship.

11 (13) The information may be disclosed to an organ
12 procurement organization or a tissue bank processing the tissue of
13 a decedent for transplantation into the body of another person, but
14 only with respect to the donating decedent, for the purpose of
15 aiding the transplant. For the purpose of this paragraph, the terms
16 "tissue bank" and "tissue" have the same meaning as defined in
17 Section 1635 of the Health and Safety Code.

18 (14) The information may be disclosed when the disclosure is
19 otherwise specifically authorized by law, such as the voluntary
20 reporting, either directly or indirectly, to the federal Food and
21 Drug Administration of adverse events related to drug products or
22 medical device problems.

23 (15) Basic information, including the patient's name, city of
24 residence, age, sex, and general condition, may be disclosed to a
25 state or federally recognized disaster relief organization for the
26 purpose of responding to disaster welfare inquiries.

27 (16) The information may be disclosed to a third party for
28 purposes of encoding, encrypting, or otherwise anonymizing data.
29 However, no information so disclosed shall be further disclosed by
30 the recipient in any way that would be violative of this part,
31 including the unauthorized manipulation of coded or encrypted
32 medical information that reveals individually identifiable medical
33 information.

34 (17) For purposes of disease management programs and
35 services as defined in Section 1399.901 of the Health and Safety
36 Code, information may be disclosed as follows: (A) to any entity
37 contracting with a health care service plan or the health care
38 service plan's contractors to monitor or administer care of
39 enrollees for a covered benefit, provided that the disease
40 management services and care are authorized by a treating



1 physician, or (B) to any disease management organization, as
2 defined in Section 1399.900 of the Health and Safety Code, that
3 complies fully with the physician authorization requirements of
4 Section 1399.902 of the Health and Safety Code, provided that the
5 health care service plan or its contractor provides or has provided
6 a description of the disease management services to a treating
7 physician or to the health care service plan's or contractor's
8 network of physicians. Nothing in this paragraph shall be
9 construed to require physician authorization for the care or
10 treatment of the adherents of any well-recognized church or
11 religious denomination who depend solely upon prayer or spiritual
12 means for healing in the practice of the religion of that church or
13 denomination.

14 (d) Except to the extent expressly authorized by the patient or
15 enrollee or subscriber or as provided by subdivisions (b) and (c),
16 no provider of health care, health care service plan contractor, or
17 corporation and its subsidiaries and affiliates shall intentionally
18 share, sell, or otherwise use any medical information for any
19 purpose not necessary to provide health care services to the patient.

20 (e) Except to the extent expressly authorized by the patient or
21 enrollee or subscriber or as provided by subdivisions (b) and (c),
22 no contractor or corporation and its subsidiaries and affiliates shall
23 further disclose medical information regarding a patient of the
24 provider of health care or an enrollee or subscriber of a health care
25 service plan or insurer or self-insured employer received under
26 this section to any person or entity that is not engaged in providing
27 direct health care services to the patient or his or her provider of
28 health care or health care service plan or insurer or self-insured
29 employer.

30 (f) This section shall become operative January 1, 2003.

